



## Resources Related Legislation Adopted During the 2000 Legislative Session

By Jim Cook

The Nebraska Legislature has finished its work for the year. Resources related legislation that was enacted is summarized below. Unless otherwise noted, the bills become effective on July 13, 2000. Bills not enacted this year died at the conclusion of the session and will have to be reintroduced next year if they are to be considered again.



### LB 659: Lottery Proceeds/ Environmental Trust

The purpose of **LB 659** is to increase the dollars provided to the Compulsive Gamblers Assistance Fund. One of the ways that is done is by taking off the top the first \$500,000 of the fund that would otherwise be divided among the Compulsive Gamblers Assistance Fund, the Nebraska Environmental Trust, and the Education Innovation Fund. What remains after that allocation is divided as it is now, i.e. 49½% each to the Environmental Trust Fund and the Education Innovation Fund, and 1% to the Compulsive Gamblers Assistance Fund. For the Environmental Trust Fund, the effect is to reduce the amount of dollars annually available to it by \$247,500 (49½% of \$500,000).

### LB 701: Fences Along State Recreational Trails

**LB 701** specifies the responsibility of the Nebraska Game and Parks Commission for installing and maintaining fencing along state recreational trails (the Cowboy Trail in north central Nebraska). Unless NGPC and the landowner agree otherwise, NGPC is responsible for the construction and replacement costs of any fence along such a trail. The



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## Last Nebraska Resources

This is the last **Nebraska Resources** newsletter. With the passage of **LB 900**, the Nebraska Natural Resources Commission and the Nebraska Department of Water Resources will merge to create the **Nebraska Department of Natural Resources effective July 1, 2000.** (see **LB 900** page 3) The new NDNR will publish an agency newsletter on a quarterly basis with the first issue coming this fall.

### New Agency Information and Numbers to Remember

#### Nebraska Department of Natural Resources

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Lincoln, Nebraska 68509-4676

DNR main phone number  
(402) 471-2363

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<http://www.dnr.state.ne.us>

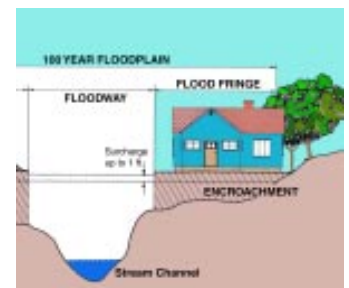
DNR Director  
Roger Patterson

## Flood Mitigation Planning Update

By Steve McMaster

My last update was from last summer, and since then several exciting events have taken place. First, Douglas, Washington, and Burt County were declared disaster areas due to the severe rainfall from the August 5-6 storms of last year. Because of this disaster declaration, the NNRC was able to meet directly with officials from most of the affected communities and to promote flood mitigation planning as a way to reduce flood damages.

The NNRC is receiving a record amount of funding from many different sources to develop flood mitigation plans. With the biggest pot of money, the NNRC has con-



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## DIRECTOR'S COMMENTS

I will "take a little extra space" for my column as we complete the last newsletter to be published by the **Nebraska Natural Resources Commission**. As our readers know, the Natural Resources Commission and the Department of Water Resources will merge into one agency - the **Department of Natural Resources** on July 1, 2000.

In the so called "how time flies" category, the Commission, first named the **Soil Conservation Committee**, has been in existence for sixty-three years. The 1937 Legislature created the agency, basically a committee of three individuals to establish soil conservation districts across the state. The three member group felt their task would be completed as soon as the state was organized in districts.

The committee members proved to be hard workers as Nebraska was blanketed with districts in about a decade, having the honor of being the first state west of the Mississippi River completely organized.

The first State Conservation Committee was also a very conservative group. In many ways they had to be, as in January of 1937, one of every six Nebraska farm families was receiving a grant for relief. While the depression along with the drought was at its worst, soil erosion from wind was a massive problem. As state officials looked for solutions to the multitude of problems they did observe that the ratio of farm families on relief in Scotts Bluff county was one in twenty-five, the difference being a stabilized economy largely due to irrigation from the North Platte project.

The Soil Conservation Service (SCS), played a very important role in getting the soil conservation districts started. They even provided the staff assistance for the State Soil Conservation Committee during many of the formative years. The first full time staff member for the Committee was Jim McDougal, who served as Executive Secretary from 1955 until 1957, when Warren Fairchild was appointed to that position. I had the pleasure of joining the staff in 1958 to make a gigantic office force of three, Warren, Hazel Jenkins and myself. I was appointed as the Agency Director in early 1971 and have served since that time. This is no doubt somewhat of a record for a state agency - three directors in sixty-three years!

As I mentioned earlier, on July 1, 2000 the agency will become the **Department of Natural Resources** as we join the Department of Water Resources, an agency that has even a much longer record of service to the citizens of Nebraska. The role of the sixteen commission members will not change a great deal as we form the new state agency. The advise and consultation on programs that provide funding for conservation activities will remain as an important charge for the group.

In conclusion, I would be remiss not to mention and thank the great people, both staff and others that have provided direction and leadership to the Natural Resources Commission over the many years. Many wonderful people come to mind, but I will just mention two. First, Everett M. Barr of Liberty, Nebraska. Everett passed away in 1964, but he was a gentleman that had concern for the stewardship of the environment long before it became popular. Everett was one of the founding fathers of the National Association of Conservation Districts as well as the Nebraska Association of Conservation Districts. The second, Milton Fricke of Papillion. Milton was an early leader in the small watershed program, both in the state and on a national basis. Milton passed away earlier this year and he had certainly distinguished himself in many ways. Milton was chairman of the Commission when I was appointed the Executive Secretary in 1971. I have really been honored to work with wonderful mentors like these two gentlemen and of course many others.

I am sure each of you remember the famous story about the letter Mark Twain is said to have written to a newspaper editor who had reported his death. The letter went something like this: "Dear Sir: I noted that your newspaper this morning announced the news of my untimely demise. I beg to inform you that his report is slightly exaggerated." While our 63 year old agency will no longer be in existence after July 1, 2000, any report of a "demise" will be greatly exaggerated. Good things will happen as we join forces to establish the **Nebraska Department of Natural Resources**. My thanks to each of you as we conclude this chapter and move forward to assist in the management of our precious natural resources.

A handwritten signature in cursive script that reads "Doyle Williamson".

-Director of Natural Resources

(2000 Legislative Session Con't)

Commission is also responsible for providing supplies for the maintenance of a fence along a state recreational trail. The adjoining landowner is responsible for the actual maintenance. The type of fence required is a wire fence of at least four barbed wires or a fence of any other type agreed to by the Commission and the adjoining landowner. However, NGPC's responsibility for fences along state recreational trails does not exceed the amount appropriated to the Commission by the Legislature for that purpose or otherwise made available to the Commission for such purposes.



## Nebraska Department of Natural Resources

### LB 900: Merger of NRC and DWR/ 50 Foot Wells/ Meters for Surface Water Users in the Republican River Basin

**LB 900** had **four objectives**. The **first** is to merge the Natural Resources Commission and the Department of Water Resources to create the Department of Natural Resources. That merger will occur on July 1, 2000, the operative date of LB 900.

The programs of the two departments will remain essentially unchanged by the merger. Also retained is the makeup and most of the functions of the sixteen member Natural Resources Commission. The Commission will continue to be responsible for the rules and regulations and other specific duties relating to five different funds previously administered by NRC (the agency). The Commission will also serve in an advisory capacity to the Director of Natural Resources (the head of the combined agency) to the extent desired by that Director.

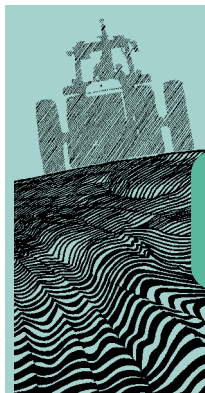
The only significant changes in the relationship between the sixteen member Commission and the Department relate to floodplain management, the State Water Planning and Review Process, and the appointment of the Director of Natural Resources. The Commission will no longer be responsible for the adoption of state minimum standards for local floodplain management programs; that will now be done by the Department and the Director. Also, the Commission will not be required to approve the form and content of all reports produced through the Planning Process. However, they will serve in an advisory capacity on many elements relating to that process. Finally, the Commission will no longer have an official role in the appointment of the Director of Natural Resources. However, the Director, who is to be appointed by the Governor, must meet the same qualifications as the current Director of Water Resources; i.e. he or she must be a professional engineer with at least five

years experience in a position of responsibility in irrigation work.

The **second purpose** is to broaden the cost-share program for water measuring devices in the Republican River Basin. When that program was originally adopted in 1998, it provided cost-share assistance only for water wells in the alluvial aquifer. LB 900 extends that cost-share to surface water users who are also now required to install measuring devices. No additional funds were appropriated for this purpose as it is believed that the \$1.5 million total appropriated for the alluvial wells will be sufficient to provide the cost-share for both the wells and the surface water uses.

The **third objective** of LB 900 is to grandfather wells drilled between September 9, 1993 and July 1, 2000 that would otherwise be subject to regulation as surface water uses because they are located within 50 feet of the bank of any natural stream. This change is made to grant relief to the owners of eight "island wells," all of which are in the Platte basin.

The **fourth objective** of LB 900 is to grant more flexibility to surface water users whose appropriation for irrigation purposes is so small that literal compliance with the standard 1 cfs per 70 acres diversion rate is very difficult. LB 900 allows such users to divert at a greater instantaneous rate as long as the volume of water used in a 7-day Monday through Sunday period does not exceed the amount of water otherwise allowable at the 1 cfs per 70 acre rate if diversion at that rate were to occur for the whole seven days.



### LB 957: Carbon Sequestration Advisory Task Force/ ET Endowment Fund

"Carbon sequestration" is the use of practices, technologies, or other measures which increase the retention of carbon on agricultural land with the purpose of offsetting carbon dioxide emissions from other sectors of the economy. Interest has been expressed, and pilot projects are already being tried, in other parts of the country to determine how agricultural producers might be paid for producing carbon credits through changed land use practices which result in better carbon storage. The purpose of **LB 957** is to explore the potential for such a carbon sequestration credit system for Nebraska. The bill, which had the emergency clause and became effective on April 10, creates a fourteen member "Carbon Sequestration Advisory Committee."

Under the bill, two reports are to be produced by the Director of Natural Resources. The first, which is due on or before December 1, 2001, is to explore the potential

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for development of a system or systems of carbon emissions trading or markets for carbon sequestered on agricultural land. The second report, due on or before January 1, 2002, would assess agricultural lands in Nebraska for past carbon sequestration and for future carbon sequestration potential. Public and private funding will be needed for the conduct of the studies. Funding from the Environmental Trust will also be requested.

**LB 957** also had a **second purpose**. That is to create the "Nebraska Environmental Endowment Fund." That fund would allow the Nebraska Environmental Trust Board to set aside a portion of the proceeds realized from the lottery and combine those with other funds made available to create a long-term endowment fund. In any given year, the Environmental Trust could not transfer more than twice the total of any proceeds received by the Nebraska Environmental Endowment Fund from other sources or more than 50% of the total lottery proceeds credited to the Environmental Trust Fund that year. Once in the Endowment Fund, only the interest earned on those funds can be expended, not the principal.

### LB 1234: Ethanol/Water Quality Monitoring Study/Niobrara Council/Wastewater Treatment Grants

**LB 1234** is a bill with a rather unusual evolution. The bill's original purpose was to mandate the sale of only ethanol in the state. By the time it passed, the ethanol mandate was gone but several other items had been substituted. With regard to the original purpose, an ethanol pricing task force was created to examine the practices, policies, and methods by which ethanol prices are set and to include a comparison of ethanol prices to other motor fuel prices in Nebraska. That task force is to file its report with the Legislature on or before December 1, 2000.

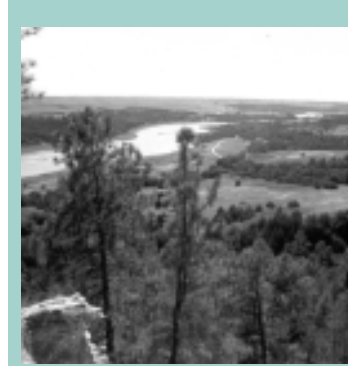


**One other purpose of LB 1234** is to direct the Nebraska Department of Environmental Quality to conduct a comprehensive study of water quality monitoring in Nebraska. The study is to occur in two phases. Both phases will involve the assistance of an advisory committee. Phase I is to be

completed on or before December 1, 2000 and Phase II is to be completed on or before June 30, 2001. The purpose of Phase I is to assess Nebraska's current water quality monitoring efforts. Phase II of the study will utilize the information gathered during Phase I and consist of a detailed description of the changes required to establish a comprehensive, integrated statewide water quality monitoring system, including preferred alternatives if multiple options exist. An estimate of funding necessary to imple-

ment the recommendations of Phase II of the study will also be part of the second report.

**Another purpose of LB 1234** is to reconstitute the



"Niobrara Council." That is done to provide a stronger local entity to contract with the National Park Service for certain functions required in the management of the Niobrara Scenic River. The makeup of the Niobrara Council will be very much like the present council. It includes representatives

of each of four county boards, representatives of two NRDs, representatives of NGPC, the U.S. Fish and Wildlife Service, and National Park Service; resident landowners in the Scenic River Corridor; a representative from the recreational business operating within the corridor; a timber industry representative operating within the Scenic River Corridor; and a representative of a recognized, non-profit environmental, conservation, or wildlife organization. Except for the county, NRD, state and federal agency representatives, the remainder are to be selected by the Governor from lists submitted by the county board representatives on the Council.

The Council is authorized to perform management functions related to the Niobrara Scenic River Corridor, including but not limited to, those authorized and delegated to it by the National Park Service. NGPC is authorized to provide administrative support for the Council in an amount not to exceed \$50,000 a year. The Council is authorized to hold title to real estate and to obtain conservation easements.

The Council is also given the authority to review and approve or reject all zoning regulations which affect land in the Niobrara Scenic River Corridor that is not within the incorporated boundaries of a municipality. The Council itself also may adopt and enforce zoning regulations within, and only within, the Niobrara Scenic River Corridor in counties where there is no zoning or where the county and the council cannot agree on zoning terms.

State or state-assisted activities proposed within the Niobrara Scenic River Corridor are also subject to review and approval by the Council. The Council would have thirty days to review a proposed state activity and if it found the proposed activity to be unacceptable, the activity could not proceed unless approved in writing by the Governor.

### Related Interim Study Resolutions

Listed on page 5 are brief descriptions of related interim study resolutions. The content of these resolutions can be viewed by clicking on the resolution number

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## NRDF Funds Obligated for FY 2001

By Tom Pesek

The Commission obligated a total of \$2,183,050.00 in Nebraska Resources Development Fund (NRDF) funds at its May 4, 2000, meeting. The funds (all grants) will be available to the project sponsors on a reimbursement basis effective July 1, 2000. One of the projects, **Powder Creek**, is a new start while the other four are already underway.

The Lower Platte North NRD was obligated \$431,275 for the construction of **Skull Creek Site 55**, a small multi-purpose reservoir near Bruno. The obligation of \$319,050 will allow the Lower Platte South NRD to continue design work and initiate land rights acquisition in the Stevens Creek Watershed Project east of Lincoln. The Central Platte NRD will utilize the obligation of \$1,000,000 for bridge construction work in the **Lower Wood River/Upper Warm Slough Project**, a Corps of Engineers' Section 205 flood control project at Grand Island. **The City of Wakefield** will use \$123,812 to assist with land rights acquisition and construction work in the Wakefield Levee Project, which will protect the city from flooding along Logan Creek. The Lewis and Clark NRD was obligated \$308,913 for engineering and land rights acquisition for the Powder Creek Project near Newcastle, a multi-purpose site in the Aowa Creek Watershed, a Natural Resources Conservation Service P.L. 566 Project.

(2000 Legislative Session Con't)

in the final legislative memo for the year on our website (<http://www.nrc.state.ne.us>).

**LR 368** – Interim study on issues relating to small private transfers of groundwater for domestic uses. Referred to Natural Resources.

**LR 370** – Interim study of ways to prevent contamination of water. Referred to Natural Resources and Appropriations.

**LR 376** – Interim study of powers of DEQ relating to protection of cold water Class A streams. Referred to Natural Resources.

**LR 379** – Interim study to enhance public awareness of the Environmental Trust and its missions. Referred to Natural Resources.

**LR 381** – Interim study of the concept of water banking. Referred to Natural Resources.

**LR 418** – Interim study of use of Environmental Trust to fund development of agricultural filter strips. Referred to Natural Resources.

**LR 420** – Interim study of federal mandate on municipalities to develop storm water management programs. Referred to Natural Resources.

(Flood Mitigation Planning Update Con't)

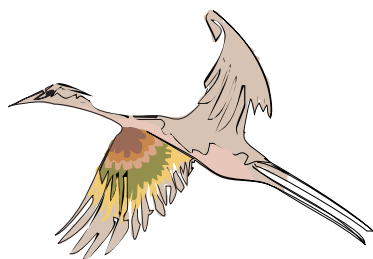
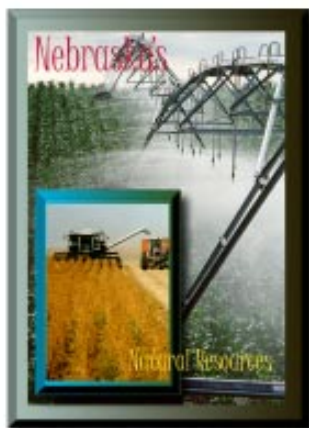
tracted with the Nebraska Emergency Management Agency for a portion of their Hazard Mitigation Grant Program (HMGP) funds. HMGP funds are made available to states from the Federal Emergency Management Agency (FEMA) as a result of declared disasters and may be used statewide. **All FEMA money requires a 25% non-federal match**; therefore, we were very excited to receive Community Development Block Grant (CDBG) funds from the Nebraska Department of Economic Development for this purpose. The CDBG funds are being used to fund a flood mitigation plan for the Village of DeWitt, and now that the introductory engineering studies have been completed, that plan is ready to take off. With the HMGP money fully-matched, we have been able to approach communities with 100% funding to complete flood mitigation plans. With these funds, we have started plans in Fort Calhoun and Tekamah (both were affected by the flooding last August), have a contract to start a plan in Milford, are in the process of contracting for work in Ponca, and have several other communities interested.

The FMA program is another FEMA program. It came into existence in 1997, and offers annual planning and project funds to states. The NNRC has requested the last project funds for the Beatrice acquisition project (FY97) and will be closing that grant soon. The FY98 funds went to the City of Superior for a bank stabilization project along Lost Creek. The necessary paperwork has been submitted and approved, and work is set to commence this summer. FY99 planning funds are being used to fund a mitigation plan in Fort Calhoun (HMGP funds are

supplementing this effort). Project funds for this year are being used to fund "phase II" acquisitions in Beatrice and to fund a terrific acquisition project in Fort Calhoun of one residence which was substantially damaged from the flooding of last August. The City and Papio-Missouri NRD have given their tentative approval to split the non-federal match for the project funds. The acquired land will be kept as open space for stormwater storage or to expand an adjacent existing city park. FY00 planning and project funds have yet to be obligated.

The flood mitigation plans through the Corps of Engineers' Lower Platte Feasibility Study have been delayed because Corps personnel have had to address ongoing aspects of controversial projects within the Study. The NNRC has contracted with the Corps of Engineers for their Section 22 planning funds for the development of flood mitigation plans in the Omaha District Corps boundary. These funds are being matched 50/50 with CDBG funds. In introductory talks, the target area for these funds will be housing developments along the Platte River in southern Sarpy County. This will work well with the updated floodplain boundaries that the Feasibility Study will furnish.

The NNRC has been very successful in developing a tighter and more comprehensive floodplain management program because it has expanded to include mitigation with the advent of the FMA Program. We are in a continuous process of educating local officials and floodplain managers in Nebraska about the importance of having an adopted flood mitigation plan and the availability of funds to complete them.



## Diverse Natural Resources of Nebraska

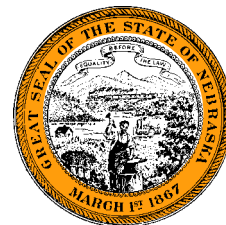
NEBRASKA RESOURCES SPRING, 2000/p.6

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-Thank you

**STATE OF NEBRASKA**  
Mike Johanns, Governor



**NEBRASKA**  
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